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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,618	04/10/2004	Marco Grethel	GS 0669 A US	8953
20676	7590	02/23/2005	EXAMINER	
ALFRED J MANGELS 4729 CORNELL ROAD CINCINNATI, OH 452412433			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	
DATE MAILED: 02/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,618

Applicant(s)

GRETHEL, MARCO

Examiner

Theresa Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “rotatable displacement unit (first gear, second gear), supply chamber, spring element” recited on claim 1, 10 and 12, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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2. Applicants are required to show a longitudinal a fluid delivery device having a first gear, second gear, a pressure plate, an axial plate and the spacer.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong et al. (Wong) (Patent Number 6,050,796).

Regarding claims 1-9, 11 and 13 as shown in Fig. 1, Wong discloses a fluid delivery device with a housing including at least one supply chamber, and a rotatable displacement unit arranged within the supply chamber, whereby the displacement unit serves to supply a medium to at least one pressure chamber provided within the housing, said fluid delivery device comprising: a pressure plate (34) positioned between the pressure chamber (70) and the housing (22), wherein the pressure plate is uncoupled from the housing by at least one spacer element (40, 68) that is arranged between the pressure plate and the housing; the pressure plate (34) being arranged between the housing and an axial plate (44); the pressure plate (34) being at least partially received within a recess provided in the housing; at least one seal (72) being arranged between the pressure plate and the axial plate (44); at least one groove formed in the pressure plate (34), whereby the groove serves to partially receive and to hold the seal; spacer elements (40, 68) being arranged between the pressure plate (34) and the housing (22) both in a direction

of an axis of rotation of the displacement unit and perpendicular thereto; the pressure plate (34) being at least partially received within a recess provided in the axial plate; at least one seal (72) being arranged between the pressure plate and the axial plate; the at least one spacer element (40, 68) being made from an elastomeric/plastic material.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong 796 in view of Parrett (Patent Number 3,490,383).

Wong discloses the invention as recited above; however, Wong fails to disclose the displacement unit includes a first gear that is rotatably received within the housing and that cooperates with a second gear that is rotatably received within the housing.

Parrett teaches that it is conventional in the art to utilize a gear pump (see Figs. 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have utilized the gear pump, as taught by Parrett in the Wong apparatus, since both types of pumps are shown to be conventionally utilized to pump a liquid.

4. *Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong 796 in view of design choice.*

Wong discloses the invention as recited above; however, Wong fails to disclose the spacer element is made in the form of a spring element.

It is examiner's position that one having ordinary skill in the pump art, would have found it obvious to utilize the spacer element being made in the form of a spring element, since they are merely design parameters, depending on the design variables such as the load applied to the pump and the viscosity of the lubricating fluid and depending on using for a particular purpose or solving a stated problem. Moreover, there is nothing in the record which establishes that the claimed spring element, presents a novel of unexpected result (See *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)).

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of three patents: Pollman (U.S. Patent Number 3,718,411), Buchmuller et al. (U.S. Patent Number 6,425,747), and Wong et al. (U.S. Patent Number 6,481,990), each further discloses a state of the art.

Communication


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm. The new telephone number is 571-272-4868 that will become effective after November 22, 2004.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E Denion can be reached on 571-272-4859. The new telephone number is 571-272-4859 that will become effective after November 22, 2004. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TT


Theresa Trieu
Primary Examiner
Art Unit 3748